COUNTY OF LOS ANGELES

# SHERIFF'S DEPARTMENT

*A Tradition of Service*

DATE: March 1, 2011

OFFICE CORRESPONDENCE FILE NO. FO2267633

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: JOSEPH M. GOODEN, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
**STEVEN G. MILLER #[redacted]**
**TWIN TOWERS CORRECTIONAL FACILITY**

At approximately 1915 hours, Deputy Steven G. Miller #[redacted] was involved in a use of force while attempting to subdue a combative inmate resulting in the inmate sustaining a fractured wrist.

Deputy Miller was escorting Inmate Hernandez from module 172 to the Tower One transfer center because Hernandez was being declassified and rehoused at Men's Central Jail.

Once inside the transfer center, Deputy Miller separated Inmate Hernandez from the other inmates because Hernandez is a [redacted] Deputy Miller directed Inmate Hernandez to face the wall and Hernandez refused. Deputy Miller repeated his order, again directing Hernandez to face the wall. Hernandez responded by turning to his left and striking Miller in the ribs with his left elbow. Deputy Miller responded to the assault by grabbing Hernandez by his shirt and taking him to the floor. During the takedown Hernandez struck the left side of his face on the floor. While Inmate Hernandez was on the floor he again used his left elbow to try and strike Deputy Miller in the ribs. Fearing he was going to be struck again, Deputy Miller punched Inmate Hernandez in the mouth one time with his right fist. Inmate Hernandez was then handcuffed without further incident.

Inmate Hernandez was treated for a small laceration above his left eye, a small laceration on the left corner of his mouth, and an abrasion on the center of his forehead. During subsequent examination and treatment it was determined that Inmate Hernandez' right wrist was broken, presumably during the controlled takedown effected by Deputy Miller.

On February 24, 2011, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Steven G. Miller #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by Deputy Miller in this incident were within Department Policy.

Eric B. Smith, Commander

EBS:RSP/rsp

## Table of Contents

# Los Angeles County Sheriff's Department

## Supervisor's Report on Use of Force



**Incident Information**

| | | | |
|---|---|---|---|
| URN: 910-00733-5800-145 | Date: 5/25/10 | Time: 1915 | |
| Location: 450 Bauchet Street, Los Angeles, CA | City or Station: Los Angeles | | |
| Bureau/Station/Facility: Twin Towers Correctional Facility | Admin. Investigation: YES ☐ NO ☒ | | |
| Type of Force: Significant Force/ Personal Weapons | | | |
| Deputy Injury : YES ☐ NO ☒ | Suspect Injury YES ☒ NO ☐ | | |
| ☐ Call | ☒ Observation | ☐ Detail | ☐ Foot Pursuit ☐ Vehicle Pursuit |
| IAB Notified: YES ☒ NO ☐ | Person Notified: Lt. Brickert | Emp: [redacted] | IAB Roll Out: YES ☒ NO ☐ |

**Involved Employee**

E 1

| | | | |
|---|---|---|---|
| Employee # [redacted] | Last Name: Miller | First Name: Steven | Middle Name: |
| Sex: ☒ Male ☐ Female | Race: W | Unit of Assignment: TTCF | Work Assignment (Unit #, Module, etc.): |
| Shift: ☐ EM ☐ Day ☒ PM | ☒ Regular Shift ☐ OT Shift ☐ Off Duty | Age: [redacted] | Height: 506 Weight: 130 |
| ☐ Injured ☐ Treated ☐ Admitted | Hospital: | Coroner Case # | Directed Force ☐ Significant Force ☒ |

E__

| | | | |
|---|---|---|---|
| Employee # | Last Name | First Name | Middle Name |
| Sex: ☐ Male ☐ Female | Race: | Unit of Assignment: | Work Assignment (Unit #, Module, etc.): |
| Shift: ☐ EM ☐ Day ☐ PM | ☐ Regular Shift ☐ OT Shift ☐ Off Duty | Age: | Height: Weight: |
| ☐ Injured ☐ Treated ☐ Admitted | Hospital: | Coroner Case # | Directed Force ☐ Significant Force ☐ |

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|---|---|---|---|
| Employee # | Last Name | First Name | Middle Name |
| Sex: ☐ Male ☐ Female | Race: | Unit of Assignment: | Work Assignment (Unit #, Module, etc.): |
| Shift: ☐ EM ☐ Day ☐ PM | ☐ Regular Shift ☐ OT Shift ☐ Off Duty | Age: | Height: Weight: |
| ☐ Injured ☐ Treated ☐ Admitted | Hospital: | Coroner Case # | Directed Force ☐ Significant Force ☐ |

☐ Additional Involved Employees

**On Duty Supervisor**

| Emp. # | Last Name | First Name | Middle Name | Rank | Present | Witness to Incident |
|---|---|---|---|---|---|---|
| [redacted] | Yocum | Michael | | Sgt | YES ☐ NO ☒ | YES ☐ NO ☒ |
| | | | | | YES ☐ NO ☐ | YES ☐ NO ☐ |

**Watch Sergeant**

| Emp. | Last Name | First Name | Middle Name |
|---|---|---|---|
| [redacted] | Khasaempanth | Catrina | |

**Watch Commander**

| Emp. | Last Name | First Name | Middle Name |
|---|---|---|---|
| [redacted] | Vega | David | |

Watch Commander (**Print Name**) | Watch Commander's **Signature**: | Emp #: | Date

Sgt. Albert Maldonado | [redacted]

Supervisor Completing Form: (**Print Name**) | Emp #: | Copy Provided to Employee by: | Emp #:

Unit Commander (**Print Name**) | Unit Commander's **Signature**: | Emp #: | Date

DISCOVERY Use Only

FO#

Original: Discovery Unit
Copy: Unit Commander

SH-R-438P (Rev. 12/07)

# Supervisor's Report on Use of Force
# SUSPECT INFORMATION
## 910-00733-5800-145



**Suspect Information**

S 1

Last Name: Hernandez | First Name: Marcos | Middle Name:

AKA Last Name: | First Name: | Middle Name:

Sex: ☒ Male ☐ Female | Race: H | Street Address: [redacted] | City: [redacted] | State & Zip Code: [redacted]

Work Phone: | Home Phone: | Age: 30 | Height: 506 | D.O.B. 02/11/80 | Weight: 150 | Armed? ☐

Booking #: 2337334 | Primary Charge Code: 459 P.C.. | Secondary Charge Code: | Criminal History [redacted]

EMT in attendance? ☒ YES ☐ NO Name: ______ Unit: ______ Phone #: ______

Hospital Admission? ☐ Rec'd Treatment At: TTCF Clinic | Coroner Case #: ______ | Mental History ☐

By Doctor: ______ Address: ______ Phone #: ______

Under Influence: ☐ YES ☒ NO Substance: ______ | Mental Illness ☐

**Suspect Interview**

Date: | Time: | Audiotape: ☐ | Videotape: ☐ | Photos of Injuries: ☐

**Suspect Information**

S__

Last Name: | First Name: | Middle Name:

AKA Last Name: | First Name: | Middle Name:

Sex: ☐ Male ☐ Female | Race: | Street Address: | City: | State & Zip Code:

Work Phone: | Home Phone: | Age: | Height: | D.O.B. | Weight: | Armed? ☐

Booking #: | Primary Charge Code: | Secondary Charge Code: | Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: ______ Unit: ______ Phone #: ______

Hospital Admission? ☐ Rec'd Treatment At: ______ Coroner Case #: ______ Mental History ☐

By Doctor: ______ Address: ______ Phone #: ______

Under Influence: ☐ YES ☐ NO Substance: ______ | Mental Illness: ☐

**Suspect Interview**

Date: | Time: | Audiotape: ☐ | Videotape: ☐ | Photos of Injuries: ☐

**Suspect Information**

S__

Last Name: | First Name: | Middle Name:

AKA Last Name: | First Name: | Middle Name:

Sex: ☐ Male ☐ Female | Race: | Street Address: | City: | State & Zip Code:

Work Phone: | Home Phone: | Age: | Height: | D.O.B. | Weight: | Armed? ☐

Booking #: | Primary Charge Code: | Secondary Charge Code: | Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: ______ Unit: ______ Phone #: ______

Hospital Admission? ☐ Rec'd Treatment At: ______ Coroner Case #: ______ Mental History ☐

By Doctor: ______ Address: ______ Phone #: ______

Under Influence: ☐ YES ☐ NO Substance: ______ | Mental Illness ☐

**Suspect Interview**

Date: | Time: | Audiotape: ☐ | Videotape: ☐ | Photos of Injuries: ☐

☐ Additional Suspects Involved

## Force Applied

## Incident Details

I/M Hernandez became combative when he was ordered by Deputy Miller to face the wall. Hernandez spun and delivered an elbow strike to Deputy Miller's rib cage area. Deputy Miller responded by taking Hernandez to the ground and punching him in the face. Hernandez sustained a fractured right wrist as a result of the take down.

## Report Use of Force by Involved Employee(s)

## Witness Interview(s)

***Method***

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

***Type of Injury***

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

***Body Part Injured***

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

| FORCE USED BY | | FORCE USED AGAINST | | Method (Code) | Type of Injury (Code) | Body Part (Code) |
|---|---|---|---|---|---|---|
| Name | E# or S# | Name | E# or S# | | | |
| Hernandez | S#1 | Miller | E#1 | UC, PH | NN | CH |
| Miller | E#1 | Hernandez | S#1 | TD | LC, FR | FA, WR |
| Hernandez | S#1 | Miller | E#1 | PH | NN | NN |
| Miller | E#1 | Hernandez | S#1 | PH | CP | FA |
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COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

# SIGNIFICANT FORCE INCIDENT EVALUATION

**UNIT:** Twin Towers Correctional Facility
**DATE:** May 25, 2010 (Tuesday)
**TIME:** 1715 hours
**LOCATION:** 450 Bauchet Street, Los Angeles, CA 90012
**URN#:** 910-00733-5800-145
**IAB#:** **FO2267633**

**NATURE OF INCIDENT:** On May 25, 2010, at approximately 1915 hours, Deputy Steven Miller while assigned to the Twin Towers Correctional Facility was involved in a use of force while attempting to subdue a combative inmate. Ultimately, it was determined that the encounter resulted in the inmate sustaining a fractured wrist.

Deputy Miller was escorting Inmate Hernandez from module 172 to the Tower One transfer center because Hernandez was being declassified and rehoused at Men's Central Jail. Once inside the transfer center Deputy Miller separated Inmate Hernandez from the other inmates because Hernandez is a [redacted] Deputy Miller directed Inmate Hernandez to face the wall and Hernandez refused. Deputy Miller repeated his order, again directing Hernandez to face the wall. Hernandez responded by turning to his left and striking Miller in the ribs with his left elbow. Deputy Miller responded to the assault by grabbing Hernandez by his shirt and taking him to the floor. During the takedown Hernandez struck the left side of his face on the floor. While Inmate Hernandez was on the floor he again used his left elbow to try and strike Deputy Miller in the ribs. Fearing he was going to be struck again, Deputy Miller punched Inmate Hernandez in the mouth one time with his right fist. Inmate Hernandez was then handcuffed without further incident.

Inmate Hernandez was treated for a small laceration above his left eye, a small laceration on the left corner of his mouth, and an abrasion on the center of his forehead. During subsequent examination and treatment it was determined that Inmate Hernandez' right wrist was broken, presumably during the controlled takedown effected by Deputy Miller.

## INVOLVED PERSONNEL:

**Miller, Steven**- Deputy, Employee #[redacted]



Twin Towers Correctional Facility
Module T-172
Custody Division

**EMPLOYEE'S WORK HISTORY:**

Date of Employment: 06-28-06
Date Assigned to TTCF: 11-01-06
Prior Shooting Incident(s): [redacted]
Prior Founded Force Incidents: [redacted]

## INVOLVED SUSPECT (S):

**Hernandez, Marcos** MH/30, Booking #2337334
DOB: 02-11-80
[redacted]
Booking Charges: 459 P.C.
CII: [redacted] Main#: [redacted]

**Involved Suspect Criminal History:**
Suspect Hernandez's criminal history consists of [redacted]

CCHRS printout included in this review. (**Refer to Exhibit B**)

## INVOLVED DEPUTY WITNESSES:

None

## NON-DEPARTMENT WITNESSES:

**None**

## INVOLVED EMPLOYEE STATEMENTS:

**Deputy Steven Miller, #**[redacted] was interviewed on June 9, 2010 by Sergeant Albert Maldonado of the Internal Affairs Bureau. The interview was digitally recorded and transcribed. The following is a summary of the interview.

Deputy Miller said he was assigned to Module 172 when he was tasked with escorting an inmate (Marcos Hernandez) housed in the module and being de-classified, to the Tower 1 transfer center. He noted Hernandez was a documented [redacted] and needed to be housed at the Men's Central Jail where he could be segregated from the other inmates. He was escorting him to the transfer center where he would be met by deputies from Men's Central Jail to be escorted.

**I.A.B. Note: Deputy Miller said Module 172 houses inmates who are classified as 5150 W.I.C. or who otherwise have a history of mental illness.**

Deputy Miller said he instructed Hernandez to place his hands in his pockets then escorted him to the inmate elevator and down six floors to the Tower 1 transfer center. Upon reaching the transfer center he instructed Hernandez to face the wall in front of Tank 1.

Hernandez momentarily faced the wall and became upset, telling Miller the wall was dirty. Deputy Miller said Hernandez immediately spun to his left and struck him with his elbow directly on the chest (left breast area). Deputy Miller said the strike stunned him and he reacted by immediately grabbing Hernandez by the shirt collar, pulling him backward and to his left and taking him to the ground. He said Hernandez used both of his hands in a "push-up" type position to break his fall then landing face first onto the ground from that position. Once Hernandez was on the ground, Deputy Miller said he shouted several verbal commands and tried to subdue Hernandez by kneeling on the right side of Hernandez, who was still on his stomach. He said Hernandez attempted to stand up, turned his head to the left and again attempted to strike him (Miller) by swinging his elbow backward towards him. Deputy Miller, who was trying to apply control holds by grabbing Hernandez's hands, said he reacted by striking Hernandez one time with his right fist on the left side of his face. He said the strike was effective as Hernandez became compliant and submitted to handcuffing.

**I.A.B. Note: Deputy Miller said he instructed Hernandez to stand outside of a large empty cell (Tank 1) as he awaited an escort to Men's Central Jail because, as a matter of practice, they like to keep the large cells open for large groups of inmates. They would not be able to use that cell if other inmates arrived as Hernandez needed to be segregated from other inmates. Also, he felt if he had put Hernandez in the cell by himself he would have been missed and forgotten about by the deputies from Men's Central Jail who would be providing the escort. It was his intent to have Hernandez face the wall with his hands in his pockets while they awaited the arrival of the escorting deputies. He said he never asked Hernandez to place his hands on the wall.**

Deputy Miller said once Hernandez was handcuffed he radioed for a sergeant to respond. Other deputies responded and assisted him in lifting Hernandez to his feet.

He said he grabbed Hernandez underneath the armpit area and guided him upward as Hernandez used his own power to stand on his feet. He is not sure which deputy (ies) escorted Hernandez to the nurses station to be checked medically.

**I.A.B. Note: Deputy Miller said he did not have a Taser assigned to him on this particular day. He added the incident occurred very quickly and although he was carrying O.C. Spray, he did not have an opportunity to deploy it.**

**DEPARTMENT WITNESS STATEMENTS:**

**None**

**NON-DEPARTMENT WITNESS STATEMENTS:**

**Suspect Marcos Hernandez,** was interviewed on May 28, 2010 by Sergeant Albert Maldonado of the Internal Affairs Bureau. The interview was digitally recorded and transcribed. The following is a summary of the interview.

Marcos Hernandez said he was being escorted from the suicide dorm and was ordered by a deputy to face and place his hands against the wall. He noted he was bitten by a dog prior to being incarcerated and sustained dog bite wounds to both hands. He feared if he placed his hands on the wall his wounds would become infected.

**I.A.B. Note: Both of Marco's hands had stitches as a result of being bitten by a dog. He said the dog bites occurred prior to being incarcerated but would not elaborate on the circumstances of the incident.**

Hernandez said he told the deputy he did not want to place his hands on the wall and the deputy responded by grabbing his shirt by the collar and taking him to the ground. He said he landed face first onto the ground causing a small laceration to his left eyebrow. Once he was on the ground he said the deputy pulled his arms and choked him with both hands while he was still facing the ground. Simultaneously, another deputy (nfd) began pulling and "bending" his legs. He said the deputy also punched him approximately three times on the left side of his face.

Hernandez also mentioned as he was on the ground the deputy continued to choke him. He said he told the deputy he could not breathe and the deputy lifted him back up by his shirt to his feet and placed him near the wall. He was on his feet momentarily then lost consciousness and fell to the ground. The next thing he remembered was waking up and being dragged a few feet by his shirt to the nurses station. Once they were near the nurse's station he was picked up and walked in to be treated by the nurses.

Hernandez added while he was on the ground two other deputies came to assist. One deputy was "bending" his legs while the other deputy was "bending" his arms. He doesn't know who the other deputies were and he was not able to describe their appearance. He said his wrist was not injured prior to this incident and believes his wrist was fractured as the deputy bent his arm backward behind his back.

Hernandez said he never resisted or assaulted the deputy.

**SUSPECT'S INJURIES:**

The suspect sustained a small laceration above his left eye, a small laceration on the left corner of his mouth, and an abrasion on the center of his forehead. During subsequent examination and treatment it was determined that Inmate Hernandez' right wrist was broken.

**DEPUTY PERSONNEL:**

**None**

**PHYSICAL EVIDENCE:**

No physical evidence was collected at the scene.

**INVESTIGATORS OBSERVATIONS:**

No observations.

**WEAPONS USED BY DEPUTY PERSONNEL:**

Personal weapons, hands, feet.

**WEAPONS USED BY SUSPECTS:**

Personal weapons, hands, feet.

**PROPERTY DAMAGE:**

None

**CRIMINAL INVESTIGATOR and CHARGES FILED:**

**Investigator:** Ed Capifali, #[redacted] Detective, Jail Investigations Unit
**Court:**
**Charges Filed:** Case is still under investigation

## WEATHER CONDITIONS AND LIGHTING CONDITIONS:

The incident occurred in a lighted jail module.